

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:
THE BASU GROUP INC.,	:
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	:
Plaintiff,	:
	:
v.	:
	:
SEVENTH AVENUE, INC.,	:
	:
Defendant.	:
-----X	

Civil Action No. 16-cv-00461-PGG
ECF CASE

DECLARATION OF MICHAEL R. GILMAN
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

I, Michael R. Gilman, declare that I am lead counsel and attorney of record for Plaintiff The Basu Group Inc. (“Plaintiff”) in the above captioned action (“Action”) and have full knowledge of this issues involved herein, as follows:

1. Pursuant to Rule 5(C) of the Individual Rules of Practice of Judge Paul G. Gardephe, Civil Cases, accompanying Plaintiff’s Rule 56.1 Statement is a document entitled Appendix to Plaintiff’s Rule 56.1 Statement (“Rule 56.1 Appendix”) containing all record authority cited in Plaintiff’s Rule 56.1 Statement.
2. Attached as Exhibit A to the Rule 56.1 Appendix is a true and correct copy of this document, namely, a true and correct copy of the Declaration of Michael R. Gilman in Support of Motion for Summary Judgment.
3. Attached as Exhibit B to the Rule 56.1 Appendix is a true and correct copy of the Declaration of Bhaskar Basu in Support of Motion for Summary Judgment.

4. Attached as Exhibit C to the Rule 56.1 Appendix is a true and correct copy of the Complaint filed in this Action in the United States District Court for the Southern District of New York on January 21, 2016, assigned Civil Case No. 1:16-cv-00461-PGG, and found at Doc 1 of the Court's docket.

5. Attached as Exhibit D to the Rule 56.1 Appendix is a true and correct copy of the Affidavit of Service, effecting service of process on Defendant on March 7, 2016, and found at Doc 10 of the Court's docket.

6. Attached as Exhibit E to the Rule 56.1 Appendix is a true and correct copy of Defendant's Amended Answer and Counterclaims filed on February 17, 2017, and found at Doc 60 of the Court's docket.

7. Attached as Exhibit F to the Rule 56.1 Appendix is a true and correct copy of U.S. Copyright Registration No. VA 1-652-678, asserted by Plaintiff against Defendant in this Action.

8. Attached as Exhibit G to the Rule 56.1 Appendix are true and correct copies of front and back images of the bag sold by Defendant, titled "Hand-Painted Leather Peacock Bag", under Item No. #D7724955, and accused of infringing Plaintiff's copyright in this Action, and pages from Defendant's website and catalogs showing this bag for sale.

9. Attached as Exhibit H to the Rule 56.1 Appendix is a true and correct copy of the earlier Complaint filed by Plaintiff in this Court against Defendant on July 19, 2012, assigned Civil Case No. 1:12-cv-05565-RJS-SN ("Prior Action") asserting, amongst other causes of action, copyright infringement of the same copyright rights asserted by Plaintiff in this Action.

10. Attached as Exhibit I to the Rule 56.1 Appendix is a true and correct copy of Plaintiff's notice letter of December 9, 2015, emailed to Defendant's counsel in the above prior case, and who is Defendant's counsel in this Action.

11. Attached as Exhibit J to the Rule 56.1 Appendix is a true and correct copy of page 12 of the deposition transcript of the Rule 30(b)(6) deposition of Bhaskar Basu (“Basu Depo.”), taken by Defendant’s counsel on November 21, 2016.

12. Attached as Exhibit K to the Rule 56.1 Appendix are true and correct copies of pages 15 and 50 of the Basu Depo.

13. Attached as Exhibit L to the Rule 56.1 Appendix are true and correct copies of pages 45-46, 48 and 58-59 of the Basu Depo.

14. Attached as Exhibit M to the Rule 56.1 Appendix is a true and correct copy of a paper Visual Arts (VA) application form and its instructions, available at least from the U.S. Copyright Office website at <https://www.copyright.gov/forms/formva.pdf>.

15. Attached as Exhibit N to the Rule 56.1 Appendix is a true and correct copy of the email correspondence between employees of Defendant, expressly noting Plaintiff and a known problem with Plaintiff’s Peacock art.

16. Attached as Exhibit O to the Rule 56.1 Appendix are true and correct copies of pages 39-40 of the Rule 30(b)(6) deposition transcript taken of Paula Ludwig (“Ludwig Depo.”), by Plaintiff’s counsel on November 18, 2016.

17. Attached as Exhibit P to the Rule 56.1 Appendix is a true and correct copy of page 11 of the Ludwig Depo.

18. Attached as Exhibit Q to the Rule 56.1 Appendix is a true and correct copy of page 30 of the Ludwig Depo.

19. Attached as Exhibit R to the Rule 56.1 Appendix is a true and correct copy of the document entitled, “Biacchi Inc.’s Response to Plaintiff’s First Set of Interrogatories Nos. 1 to 7” in the Prior Action.

20. Attached as Exhibit S to the Rule 56.1 Appendix is a true and correct copy of pages 1-12 and 36 of the document entitled, "Defendant's Seventh Avenues Response to Plaintiff's First Set of Interrogatories and Document Requests."

21. Attached as Exhibit T to the Rule 56.1 Appendix are true and correct copies of copies of pages of Defendant's website, produced in this Action by Defendant, showing consumer items offered for sale by Defendant bearing Peacock art.

22. Attached as Exhibit U to the Rule 56.1 Appendix are true and correct copies of third party Peacock art images produced by Defendant in the Prior Action.

23. Attached as Exhibit V to the Rule 56.1 Appendix are true and correct copies of third party Peacock art images produced by Defendant in this Action.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 31st day of March, 2017 in Matawan, NJ, USA.

By: 

Michael R. Gilman